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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/106,841	06/30/1998	JAMES W. NICHOL		7269

7590 01/21/2004  
SHLESINGER ARKWRIGHT & GARVEY  
3000 EADS ST.  
ARLINGTON, VA 22202

EXAMINER
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CHIN SHUE, ALVIN C

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 01/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/106,841

Applicant(s)

NICHOL, JAMES W.

Examiner

Alvin C. Chin-Shue

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 22,24,26 and 29-40 is/are pending in the application.
- 4a) Of the above claim(s) 22,24 and 26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 29-32 and 36-40 is/are rejected.
- 7) ☒ Claim(s) 33-35 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 30 and 32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification as originally filed does not provide support for the U-beam (1) having enclosing brackets.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 36 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The limitation with respect to the lumber legs, when lumber legs are not claimed elements, renders the claim indefinite. Furthermore, the preamble of the claims stated that only the gripping joint is being claimed, is applicant now claiming a combination of the joint with the lumber?

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 29,31 and 36-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brewster in view of Zuercher. Brewster shows the claimed combination with the claimed splay bar. Zuercher shows a splay bar at 23. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Brewster with a splay bar as claimed, in lieu of his, to provide an angled guide surface.

Claims 29 and 36-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brewster in view of Brown. Brewster shows the claimed combination with the claimed splay bar. Brown shows a splay bar at 25 with angled guide surfaces defining a slot therebetween. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Brewster with a splay bar as claimed, in lieu of his, to provide an angled guide surface.

Claims 29-32 and 36-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myers in view of Zuercher. Myers in fig.2 shows a top joint

having a U-beam and bracket beam 7 and enclosing bracket 1. the difference being a splay bar. Zuercher shows a splay bar at 23. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Myers with a splay bar for bracing his legs.

Claims 29,30 and 36-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myers in view of Brown. Myers in fig.2 shows a top joint having a U-beam and bracket beam 7 and enclosing bracket 1. the difference being a splay bar. Brown shows a splay bar at 25. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Myers with a splay bar for bracing his legs.

Claims 29,31 and 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flick in view of Zuercher. Flick shows a top joint having a U-beam 70 and bracket beam at 54. the difference being a splay bar. Zuercher shows a splay bar at 23. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Flick with a splay bar for bracing his legs.

Claims 29 and 37-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flick in view of Brown. Flick shows a top joint having a U-beam 70 and bracket beam at 54. the difference being a splay bar. Brown shows a

splay bar at 25. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Flick with a splay bar for bracing his legs.

Claims 33-35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin C. Chin-Shue whose telephone number is 703-308-2475. The examiner can normally be reached on Monday-Friday, 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3597 for regular communications and 703-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-3008-1113.



**Alvin Chin-Shue**  
**Primary Examiner**